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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,437	10/21/2003	Emil Fehr		3697

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EXAMINER
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BUSHEY, CHARLES S

ART UNIT	PAPER NUMBER
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1724

MAIL DATE	DELIVERY MODE
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06/06/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/690,437

Applicant(s)

FEHR ET AL.

Examiner

Scott Bushey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 13-16 is/are pending in the application.
- 4a) Of the above claim(s) 13-16 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1 and 7(1) is/are rejected.
- 7) ☒ Claim(s) 2-6, 7(2-6), and 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Applicant should note that this paragraph is included herein due to the citation of the EPO reference on page 1 of the specification, which was neither cited by applicant on an IDS, nor a copy thereof supplied to allow the Examiner to consider such.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Somers (Fig. 15; page 2, col. 1, lines 36-47) or Walsh et al '789 (Figs. 2, 4, and 5).

Applicant should note that a recitation of the intended use of the claimed invention, i.e., "in a process engineering column for the guiding of liquid" must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is

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capable of performing the intended use, then it meets the claim. Clearly, the conduits resulting from the sheet metal connections as taught by either of the alternatively applied prior art references are capable of guiding liquid.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over either of Somers or Walsh et al '789, taken together with any one of Nutter '559, Peterson '008, and Peterson '309.

As stated in the rejection of paragraph 5 above, either of Somers or Walsh et al '789 is considered to anticipate applicant's invention as recited by instant claim 1. However, even if applicant cannot agree with the rejection of paragraph 5 above, Nutter

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'559, Peterson '008, and Peterson '309, suggest the use of snap-fit connection type means within structures used within a process engineering column for guiding liquid. Therefore, in view of the suggestion by any one of the alternative secondary references, that snap-fit connections be used to construct the liquid guiding internals of a process engineering column, it would have been obvious for an artisan at the time of the invention, to utilize the sheet metal structures as taught by either of Somers or Walsh et al '789 within a process engineering column, since such would provide a convenient means for ease of assembly and disassembly of the device during routine maintenance of the device.

7. Claim 7(1) is rejected under 35 U.S.C. 103(a) as being unpatentable over Somers or Walsh et al '789, taken in view of the admitted prior art.

Somers or Walsh et al '789 as applied above substantially discloses applicant's invention as recited by instant claim 7(1), except for the packing being arranged above or below the device. Clearly the sheet metal conduit device of either Somers or Walsh et al '789 can be used to collect and/or distribute liquid. Further, the prior art as discussed on page 1 of the instant specification is clearly admitted by applicant as teaching that it is well known within the art to provide a liquid collection or distribution means above or below a packing. It would have been obvious for an artisan at the time of the invention, to provide packing above or below the sheet metal devices of either Somers or Walsh et al '789, since such would serve to either distribute or collect liquid in a manner well understood within the art.

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8. Claim 7(1) is rejected under 35 U.S.C. 103(a) as being unpatentable over the reference combination as applied to claim 1 in paragraph 6 above, taken in view of the admitted prior art.

The reference combination as applied in paragraph 6 above substantially discloses applicant's invention as recited by instant claim 7(1), except for the packing being arranged above or below the device. Clearly the sheet metal conduit device of either Somers or Walsh et al '789 can be used to collect and/or distribute liquid. Further, the prior art as discussed on page 1 of the instant specification is clearly admitted by applicant as teaching that it is well known within the art to provide a liquid collection or distribution means above or below a packing. It would have been obvious for an artisan at the time of the invention, to provide packing above or below the sheet metal conduit device of either Somers or Walsh et al '789, since such would serve to either distribute or collect liquid in a manner well understood within the art.

***Allowable Subject Matter***

9. Claim 11 is allowed.

10. Claims 2-6, 7(2-6), and 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

11. Applicant's arguments with respect to claims 1 and 7(1) have been considered but are moot in view of the new grounds of rejection, which were necessitated by applicant's amendments to the claims.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

csb  
5-31-07

Scott Bushey  
Primary Examiner  
Art Unit 1724

  
5-31-07